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9 UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12)	CASE NO.: 5:23-mc-80322 (EJD)
13)	(Consolidated)
14)	
15	IN RE: CONSUMERS' ASSOCIATION)	STIPULATION AND PROPOSED ORDER
16	LITIGATION)	STAYING THE PROCEEDINGS AGAINST
17)	APPLE ONLY
18)	

19 Pursuant to Local Civil Rule 7-12, applicants Consumers' Association ("Which"),
 20 Qualcomm Incorporated ("Qualcomm"), and respondent Apple Inc. ("Apple") hereby stipulate as
 21 follows:

22 WHEREAS, on December 7, 2023, Which commenced the above-captioned miscellaneous
 23 proceeding (the "Which 1782 Proceeding") seeking discovery pursuant to 28 U.S.C. § 1782
 24 ("Section 1782") from Apple, as well as Samsung Semiconductor, Inc. ("SSI"), and Samsung,
 25 Electronics America, Inc. ("SEA," and together with SSI, the "Samsung Entities"), in connection
 26 with a lawsuit (the "U.K. Action") that Which commenced against Qualcomm before the
 27
 28

1 Competition Appeal Tribunal of the United Kingdom, *see* Dkt. No. 1;¹

2 WHEREAS, on January 23, 2024, the Court entered an *ex parte* order in the Which 1782
3 Proceeding authorizing Which to serve subpoenas on Apple and the Samsung Entities, without
4 prejudice to any argument that may be raised in a motion to quash, and requiring Apple and the
5 Samsung Entities to file any such motion within 30 days of service or notice of the subpoenas and
6 this Court's January 23, 2024 order, *see* Dkt. No. 21 at 7;

7 WHEREAS on January 25, 2024, Apple received a copy of Which's subpoena and this
8 Court's January 23, 2024 order;

9 WHEREAS, on January 26, 2024, Qualcomm commenced a separate miscellaneous
10 proceeding captioned *In re Ex Parte Application of: Qualcomm Incorporated*, No. 5:24-mc-80019
11 (N.D. Cal) (the "Qualcomm 1782 Proceeding" and, with the Which 1782 Proceeding, the "1782
12 Proceedings") seeking discovery pursuant to Section 1782 from Apple and the Samsung Entities
13 in connection with the U.K. Action, *see* Qualcomm Dkt. No. 1;

14 WHEREAS, on February 7, 2024, the Court entered an order relating the 1782 Proceedings
15 pursuant to Local Civil Rules 3-12 and 7-11, *see* Dkt. No. 24; Qualcomm Dkt. No. 13;

16 WHEREAS, on February 9, 2024, this Court entered an *ex parte* order in the Qualcomm
17 1782 Proceeding authorizing Qualcomm to serve subpoenas on Apple and the Samsung Entities,
18 without prejudice to any argument that may be raised in a motion to quash, and requiring Apple
19 and the Samsung Entities to file any such motion within 30 days of service or notice of the
20 subpoena and this Court's February 9, 2024 order, *see* Qualcomm Dkt. No. 14 at 6;

21 WHEREAS, on February 15, 2024, Qualcomm served a subpoena and a copy of this
22 Court's February 9, 2024 order on Apple;

23 WHEREAS, on February 21, 2024, this Court entered an order in each of the 1782
24 Proceedings granting Apple's motion to stay the deadline for Apple to respond to the subpoena

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26 ¹ References to a "Dkt. No." refer to the ECF numbers in the above-captioned, consolidated
27 Which 1782 Proceeding. References to a "Qualcomm Dkt. No." refer to the ECF numbers in the
28 Qualcomm 1782 Proceeding, as defined herein.

1 that Which delivered to Apple, and ordering that Apple “need not move to quash, respond to or
2 comply with” that subpoena “until April 3, 2024,” *see* Dkt. No. 32; Qualcomm Dkt. No. 20;

3 WHEREAS, on March 15, 2024, this Court entered a stipulated order in the Qualcomm
4 1782 Proceeding setting April 3, 2024 as the deadline for Apple to move to quash or respond to
5 the subpoena that Qualcomm served on Apple, *see* Qualcomm Dkt. No. 22;

6 WHEREAS, on March 28, 2024, this Court consolidated the 1782 Proceedings pursuant to
7 Rule 42(a) of the Federal Rules of Civil Procedure, and ordered that all papers to be filed in the
8 consolidated actions shall be filed in the above captioned-miscellaneous proceeding;

9 WHEREAS, on April 1, 2024, April 19, 2024, May 13, 2024, June 5, 2024, June 20, 2024,
10 July 8, 2024, August 6, 2024, August 16, 2024, October 4, 2024, November 14, 2024 and
11 December 5, 2024, this Court entered stipulated orders in the consolidated 1782 Proceedings
12 extending the deadline for Apple and the Samsung Entities to move to quash or respond to the
13 subpoenas served on them by Which and Qualcomm, *see* Dkt. Nos. 38, 40, 42, 45, 47, 49, 53, 55,
14 57, 59, and 61, and this deadline currently is set for February 13, 2025, *see* Dkt. No. 61;

15 WHEREAS, during this time, Which, Qualcomm, and Apple have conferred in good faith
16 in an attempt to reach a compromise that would obviate the need for a motion to quash;

17 WHEREAS, on December 18, 2024, Which, Qualcomm, and Apple executed an agreement
18 (the “Agreement”) regarding the scope of discovery that Apple will produce in response to the
19 subpoenas served on it by Which and Qualcomm in the 1782 Proceedings;

20 WHEREAS, the Agreement consensually resolves the scope of discovery sought by Which
21 and Qualcomm in the 1782 Proceedings; and

22 WHEREAS, once the Agreement is fully performed in accordance with the terms thereof,
23 Which and Qualcomm intend promptly to file stipulations dismissing their Section 1782
24 applications against Apple with prejudice pursuant to Federal Rule of Civil Procedure
25 41(a)(1)(A)(ii).

26 NOW THEREFORE, WHICH, QUALCOMM, AND APPLE HEREBY STIPULATE,
27 subject to the approval of this Court, that:
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1 The 1782 Proceedings, including any deadline by which Apple would need to move to
 2 quash or serve written responses to the subpoenas served on it by Which or Qualcomm, are stayed
 3 against Apple to allow Apple, Which, and Qualcomm to perform pursuant to the Agreement;

4 The Court retains jurisdiction over the 1782 Proceedings to resolve disputes that may arise
 5 out of the Agreement; and

6 Once the Agreement is fully performed in accordance with the terms thereof, Which,
 7 Qualcomm, and Apple shall file stipulations dismissing the 1782 Proceedings against Apple with
 8 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

9
 10 DATED: January 10, 2025

Respectfully submitted

11
 12 /s/ Mary Sameera Van Houten Harper

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ATTESTATION PURSUANT TO LOCAL CIVIL RULE 5-1(i)(3)

Pursuant to Local Civil Rule 5-1(i)(3), I certify under penalty of perjury that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Mary Sameera Van Houten Harper

Mary Sameera Van Houten Harper

~~PROPOSED~~ STIPULATED ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that the 1782 Proceedings, including any deadline by which Apple would need to move to quash or serve written responses to the subpoenas served on it by Which or Qualcomm, are stayed as against Apple while Apple, Which, and Qualcomm perform pursuant to the Agreement. The Court shall retain jurisdiction to resolve any disputes that may arise out of the Agreement. Once the Agreement is fully performed in accordance with the terms thereof, Which, Qualcomm, and Apple shall file stipulations dismissing the 1782 Proceedings against Apple with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Date: January 13, 2025



HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE